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SOCIAL SECURITY DISABILITY: PAST, PRESENT, AND FUTURE

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SPECIAL COMMITTEE ON AGING

UNITED STATES SENATE

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PREFACE

Social security disability is an important part of the Federal Government's "safety net" to protect those persons who can no longer support themselves through work. Since its enactment in 1956, the program has gone through major expansions and administrative changes. The Special Committee on Aging has conducted a staff study of this program and produced this report for the use of those who are interested in better understanding this complex yet critically important program. Current proposals to further modify social security disability can be evaluated more meaningfully in the context of this comprehensive overview.

On the whole, the social security disability program has worked reasonably well since its inception some 26 years ago. That is, for almost 5 million workers and their dependents, this essential program has made the difference that allows severely disabled people to continue to support themselves and their families. Older workers, in particular, have been able to collect benefits under this program when their physical or mental illnesses prevent them from continuing in their former work. In fact, more than half of the disabled workers on the rolls are age 55 or older.

Recent projections show the disability insurance (DI) trust fund is financially sound. This is in contrast to the old-age and survivors insurance (OASI) trust fund, which is experiencing serious cash-flow problems. The 1981 trustees' report shows that the disability insurance fund is projected to increase in 1982, and every year thereafter, throughout the entire 75-year projection period under all sets of the trustees' economic assumptions.

Still, the program has faced serious problems. In the past, the tendency was to encourage people, albeit inadvertently, to go on the disability rolls and stay on them, without attempting to make full use of the individual's capacity to return to the mainstream of economic activity. And, despite the overwhelming numbers of severely disabled people on the rolls, recent studies have suggested that a substantial percentage of people continue to receive disability benefits who are no longer eligible for them within the strict meaning of the law. In addition, the administration of the program has not always been as careful and as exacting as the American taxpayer deserves.

Given this mixed picture of success and shortcomings, proposals have been advanced to change the disability program in a variety of ways, in the hope of improving the administration of the program and of delivering fair and consistent determinations of disability.

In the last few years, the Social Security Administration has begun to take strides to tighten up the management of the program, to eliminate some of the more obvious deficiencies, and to reexamine beneficiaries to make sure they are still entitled to benefits. This adminis-

trative effort has reached the point where 7 out of 10 applicants for disability benefits are now denied at the level of the initial claim. For those who go on to appeal denials before the administrative law judges, however, roughly 6 out of 10 applicants who were initially denied benefits gain awards. The reasons for this inconsistency are complex, and the Social Security Administration is studying the issue and planning to make recommendations.

Similar trends are being reported in SSA's program of continuing disability examinations, which were mandated by the 1980 disability amendments, but which SSA has accelerated on its own initiative. Nationally, about 45 percent of those on the disability rolls whose disability status has been reexamined are being terminated, although perhaps more than half of those who go on to appeal their terminations ultimately receive favorable decisions by the administrative law judges. The traumatic impact of the loss of disability benefits, coupled with the growing allegations of impropriety in the way the disability examinations are being conducted, is a source of serious congressional concern. In fiscal year 1983, SSA intends to review the disability status of some 433,000 social security beneficiaries, 174,000 SSI recipients, and 199,000 people receiving both social security and SSI. The General Accounting Office is conducting an investigation into the procedures being used in these continuing disability examinations, and is expected to report on its findings in the spring of 1982.

Questions of consistency and fairness are inherently difficult to answer because the determination of disability is, by its nature, subjective. Two reasonable people, with the same standards of evaluating disability and the same medical evidence, can and do disagree about what constitutes an incapacitating physical or mental illness.

But in addition to administrative efficiency and fairness, the ultimate standard of the effectiveness of the program must be its performance in meeting the needs of disabled American workers and their families. In this regard, we must keep in mind the findings of studies which report that, among those who are denied disability benefits, four out of five never return to sustained, competitive employment.

It is our hope that this staff report will prove useful to those who want to understand how the program has evolved to its present form and some of the major options now being considered for the future of the program.

One aspect that particularly concerns the Aging Committee is the interactive effects of disability and early retirement provisions within the social security system. Historically, Congress approved early retirement benefits in large part because many older workers could not continue working until age 65 due to employment problems related to ill health and disability. In any discussion of overall retirement policy for American workers, therefore, disability protection must be recognized as a vital ingredient.

JOHN HEINZ,
Chairman.
LAWTON CHILES,
Ranking Minority Member.

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SOCIAL SECURITY DISABILITY: PAST, PRESENT, AND FUTURE

EXECUTIVE SUMMARY

The Social Security Administration is charged with the administration of two disability programs designed to provide benefits to people who have severe long-term disabilities: The disability insurance (DI) program, and the supplemental security income (SSI) program.

The DI program began as a program for disabled workers over age 50. Since the enactment of cash benefits in 1956, the program has been liberalized, expanding benefits for younger workers and to dependents and survivors of disabled workers.

The program has, in fact, expanded to the point where it costs more than four times as much as was originally forecast. In the mid-1970's, more and more people became eligible for disability benefits, while relatively few of those who qualified for disability ever became rehabilitated and left the rolls.

The SSI program began in 1974, and is frequently perceived as a program primarily dealing with needy aged persons. In fact, the proportion of under 65 disabled recipients grew rapidly in the mid-1970's—as did the DI program—while the number of aged SSI recipients actually declined. The SSI program is now dominated by the disability aspects; about 64 percent of all SSI expenditures go to the disabled.

In response to the rapid growth of the Federal disability programs, Congress passed legislation in 1977, and again in 1980, which sought to improve the incentives for disabled beneficiaries to return to work. This legislation was accompanied by a separate but related effort by the Social Security Administration to tighten the management of the disability programs by working toward more uniform disability determinations and by reexamining beneficiaries more frequently to ascertain whether they remained disabled.

The impact of administrative initiatives in the DI program has been especially notable in three major areas:

Workers awards.—New awards to disabled workers peaked at 592,000 in 1975, dropped to 390,000 in 1980, and are still declining. The initial denial rate for applicants at the State agency level has risen from 50 percent in 1975, to almost 70 percent in 1980.

Disability incidence rate.—The disability incidence rate, an important cost factor in the DI program, was also highest in 1975, at 7.1 per 1,000 workers. It has fallen to 4.1 per 1,000 workers in 1980. In the history of the program it has only been lower in one other year—1964. Recent data show that the 1981 rate will be even lower.

Terminations due to recovery.—Terminations stood at 40,000 in 1976, but have increased markedly since that time and stood at 72,000 in 1979. Nationally, 45 percent of those whose disability status is reviewed are being terminated.

The large number of denials of requests for benefits has brought allegations that the program is too strict and that deserving workers are unable to obtain the benefits to which they are entitled. Despite the historic growth in the disability rolls, various surveys indicate that the number of persons in the adult population reporting themselves to be "totally disabled" is much larger than the number of persons who qualify for disability benefits. Also, even among those applicants denied DI benefits, it has been estimated that 80 percent never return to sustained employment.

These denied workers may fall between the cracks of the three present Federal income maintenance programs—unemployment insurance, total disability, and retirement programs. Workers in their fifties and early sixties leaving the work force with health problems that prevent them from doing their usual job, but are not severe enough to qualify for disability benefits, are a vulnerable part of the population. There are no programs for these people and few options for new jobs, particularly in times of high unemployment. For people in this group, a frequent alternative is to claim early social security retirement benefits beginning at age 62.

At the same time there are allegations that the program is overly strict, there are counterclaims that the DI program is malfunctioning and that it is being used in place of more appropriate programs for handicapped unemployed workers. Social security studies confirm that large sums are paid incorrectly to people misclassified as disabled. A recent Government Accounting Office (GAO) report found that a substantial number of persons—up to 20 percent—now on the rolls may be able to work, and therefore are not totally disabled as required under current law.

To add to this confusion, there is a great deal of conflicting opinion between the State agencies which make the disability decisions and the administrative law judges (ALJ) who hear the appeals of denied applicants. Although State agencies are denying 70 percent of initial claims, the ALJ's are awarding benefits by reversing the State agencies at about a 60-percent rate. Even when disability examiners and ALJ's are presented with the same evidence on the same cases, they often reach different decisions.

The Reagan administration proposed to remedy the problem of inconsistent and conflicting decisions by eliminating nonmedical factors in the disability determination process. Workers (primarily those age 60 and over) can now qualify for disability benefits based on both medical and nonmedical factors, such as age, education, and work experience. The administration recommended in May 1981 that the disability decision be made based solely on medical factors. While this approach may result in a program that is simpler to administer, it is not likely to eliminate inconsistent decisions. In fact, the number of awards each year involving nonmedical factors is relatively small (about 25 percent). The remaining awards are based on medical factors alone.

Answers to the main questions that are being raised about the inadequacy of disability decisions await further study and analysis.

Chapter 1

DEVELOPMENT OF THE DISABILITY INSURANCE (DI) AND THE SUPPLEMENTAL SECURITY INCOME (SSI) PROGRAMS

The Beginning: 1954 and 1956 Amendments

To understand the concerns behind the sometimes conflicting recommendations for changes in the DI and the SSI programs, it may be helpful to review the legislative development of the programs. Although the idea for a disability program dates back to consideration of the 1935 Social Security Act, the original act and amendments through 1953 made no provision for disabled workers.

In 1954, Congress provided a disability "freeze" period similar to waiver of premiums in private life insurance contracts. Under the freeze, periods of disability would not count against a disabled worker in determining eligibility for, and the amount, of retirement benefits.

In 1956, Congress enacted a cash benefit program, 21 years after the enactment of the retirement program, and 17 years after the enactment of survivors insurance. The delay resulted, in part, from concern that providing social security disability benefits would discourage rehabilitation, encourage malingering and abuse, and add to the costs of the program—particularly during a recession when, it was argued, strong pressures would be placed on administrators to pay benefits to unemployed workers with medical impairments, regardless of their capacity for work. The so-called "liberalizing" influence of the courts in interpreting private insurance contracts, and the generally poor experience of private disability carriers during the 1930's, were cited as precedents.

There was also concern about the administrative difficulty in making disability determinations—namely, the subjectivity of determining whether a person was out of work because of a disability or for other reasons such as age, obsolete skills or experience, and the like.

In view of all of these concerns, the eligibility requirements for the cash disability program were tightly drawn in 1956 and made intentionally restrictive to guard against (1) high costs, and (2) confusion between the disability insurance program and the unemployment program.

Only those very severely disabled by a catastrophic illness or injury could qualify for benefits. A worker had to:

—Meet an age requirement—age 50 or older.

—Have substantial and recent work under social security; that is:

(1) Have *insured status for retirement benefits*, generally one quarter of coverage for each year after 1950 (or age 21 if later), up to the year of disability.

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(2) Have *disability insured status*, 20 quarters (5 years) of coverage in the 40-quarter (10 years) period preceding the onset of disability.

(3) Have *currently insured status*, 6 quarters (1½ years) out of 13 quarters (3 years), before disability.

—Meet a very stringent test of disability, i.e., be unable to engage in any work by reason of a medical impairment which was expected to continue indefinitely.

—Accept vocational rehabilitation services or have benefits withheld.

—Wait 6 months following the onset of disability for payments to start.

The program was set up under a unique Federal-State relationship. The administration would be carried on by each State under contract with the Federal Government. Under agreements with the then-Secretary of HEW, State disability determination units (housed within State vocational rehabilitation agencies) would make disability determinations based on the definition of disability in the Social Security Act, and in accordance with Federal regulations and guidelines issued by the Social Security Administration.

This arrangement had distinct advantages because the States had prior experience in administering various disability-related programs and had established working relationships with the medical community. It was also assumed that when the disability determination process took place within State rehabilitation agencies, disabled individuals would be more easily referred for rehabilitation. The Federal Government's primary function was to interpret the law and oversee the uniform implementation of the program throughout the country.

Program experience in the first few years was better than anticipated and the scope of the program was liberalized and substantially expanded in later years.

Program Expansion: 1958, 1960, and 1965 Amendments

In 1958, benefits were added for dependents of disabled workers. The currently insured work requirement, 6 of the last 13 quarters, was also eliminated. It was brought out in congressional hearings that failure to meet the test of 20 out of 40 quarters and the 6 out of 13 quarters test—at the same time when all other disability requirements were met—resulted in 10 percent of applicants being denied.

In 1960, the age 50 requirement was dropped, making benefits payable to disabled workers of any age who met the work requirements. The 1960 Social Security Act Amendments added a 9-month trial work period—without termination of benefits—to encourage beneficiaries to return to work. They also eliminated the 6-month waiting period for those workers who reapply for disability benefits after failing in their attempts to return to work.

In 1965, Congress liberalized the definition of disability by replacing the requirement of permanent disability with a requirement that the disability must be expected to last at least 12 months or end in death. This resulted in people qualifying for benefits who might recover from their disability, in addition to those expected to remain disabled until

death. The 1965 amendments tried to encourage rehabilitation efforts by permitting the use of money from the DI trust fund to reimburse State vocational rehabilitation agencies for the cost of services provided to beneficiaries. The amendments also provided for an occupational test of disability for older blind persons. While all other applicants generally must be unable to do any substantial work, older blind persons only have to be unable to engage in their former occupations.

Disability Definition Tightened: 1967 Amendments

Beginning with the enactment of the disability "freeze" in 1954, consideration had been given to both medical and vocational factors in disability determinations. Vocational factors were used to determine whether the person was able to *perform* work, rather than whether the person was able to *obtain* employment. However, SSA had not published regulations or other definitive materials to provide explicit guidance to disability examiners and ALJ's on how to apply vocational factors. This left the decision of how the factors should be weighed in the disability decision up to the courts.

Some Federal court decisions regarding vocational factors required the administration to identify jobs for which the desired applicant might have a reasonable opportunity to be hired, rather than ascertaining whether jobs exist in the economy which he can do. In 1960, only 10 percent of disability benefit awards were based on vocational factors; by 1965, awards on the basis of vocational factors were almost 16 percent of the total. Congress was concerned that judicial rulings would set standards that could lead to substantial cost overruns and that the disability program would become a form of unemployment insurance for people with physical impairments.

In 1967, Congress inserted in the statute interpretive material which was being used by the State agencies but was only in operating manuals. This language made it clear that an individual is not to be considered disabled unless his physical or mental impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience engage in any kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied. The amendments also provided for disabled widow benefits, based on medical criteria, only beginning at age 50.

Supplemental Security Income (SSI) Program: 1972 Amendments

In 1972, Congress created the supplemental security income (SSI) program to replace the three State-run welfare programs for the aged, blind, and disabled. The program was intended to supplement the income of needy persons who were not covered under the social security disability program or who had earned low benefits under that program. Although most of the discussion leading up to the passage of SSI centered on serving the aged population, and the presumption was that the aged would be the largest group of such recipients, in fact, the disability portion of the program has been over 60 percent practically since the inception of the program.

TABLE 1.—NUMBER OF PERSONS INITIALLY AWARDED FEDERALLY ADMINISTERED SSI PAYMENTS, 1974–80

Period	Total	Disabled	Disabled as percent of total
1974	890,768	387,007	43
1975	702,147	436,490	62
1976	542,355	365,822	67
1977	557,570	362,067	65
1978	532,447	348,848	66
1979	483,993	317,590	66
1980	496,137	318,699	64

Source: Social Security Administration.

Although the statutory definition of disability is the same for the SSI program as it is for the DI program, the leading causes of disability in the two programs have turned out to be quite different. More than 30 percent of awards to DI workers in 1975 (the year of the highest number of awards) were made on the basis of diseases of the circulatory system, i.e., heart disorders. The largest category of awards for the SSI adults was on the basis of mental disorders, as the following table illustrates.

TABLE 2.—COMPARISON OF DI DISABLED WORKER AWARDS AND SSI BLIND AND DISABLED ADULT AWARDS, BY DIAGNOSTIC GROUP, 1975

[In percent]

Diagnostic group	DI	SSI
Infective and parasitic diseases	1.3	1.6
Neoplasms (cancer)	10.0	5.4
Endocrine, nutritional, and metabolic diseases	4.0	5.0
Mental disorders	11.2	[1] 30.7
Diseases of the nervous system and sense organs	6.8	10.0
Diseases of the circulatory system	30.2	20.7
Diseases of the respiratory system	6.6	4.7
Diseases of the digestive system	3.0	2.1
Diseases of the musculoskeletal system	18.7	12.7
Accidents, poisonings, and violence	5.4	3.9
Other	2.8	3.1
Total	100.0	100.0

[1] Includes mental retardation—13.1 percent.

Source: "Issues Related to Social Security Act Disability Programs," Committee on Finance, U.S. Senate, October 1979.

Other Changes in 1972

In 1972, Congress also reduced the waiting period under the DI program from 6 to 5 months, the only change ever made to the length of the waiting period. But even more important, Congress increased disability and retirement benefits by 20 percent, and provided, effective in 1975, automatically adjusted benefits based on the rise in the Consumer Price Index (CPI). Whenever the CPI rose by 3 percent or more, benefits would rise automatically.

Chapter 2

GROWTH IN THE DISABILITY PROGRAM

During the early and mid-1970's, the number of recipients in both the DI program and the SSI program increased dramatically before leveling off in the late 1970's and then declining. Between 1970 and 1976, the number of disabled workers in the DI program almost doubled, from 1.5 to 2.7 million, while the covered work force increased by only 25 percent during the same period. In January 1974, about 1.3 million blind and disabled p ons were brought into the SSI program from the former State welfare programs. By the end of the year, the number of SSI disability recipients had risen to 1.7 million. By December 1975, the number reached almost 2 million.

Combined DI and SSI benefit payments increased from a little over $4 billion in 1970, to about $21 billion in 1980, and will increase to almost $27 billion by 1983. The following table summarizes the history of DI and SSI expenditures.

TABLE 3.—ANNUAL EXPENDITURES UNDER DI AND SSI DISABILITY PROGRAMS
[In billions]

Year	DI	SSI
1965	$1.7	[1] $0.4
1970	3.3	[1] 1.0
1973	6.0	[1] 1.6
1974	7.2	2.7
1975	8.8	3.1
1976	10.4	3.3
1977	11.9	3.6
1978	13.0	4.1
1979	14.2	4.3
1980	[2] 15.9	[2] 4.8
1983	[2] 21.8	[2] 4.9

[1] Represents expenditures under the pre-supplemental security income, State-run programs of aid to the blind and permanently disabled.
[2] Estimated.

An important cost factor in the DI program is the rate at which workers become disabled and qualify for benefits. This rate is generally called the "disability incidence rate" by actuaries and demographers. The disability incidence rate remained fairly stable from 1968 to 1970, but in the next 5 years, the incidence rate increased by almost 50 percent. This increase far exceeded expectations and cannot be explained in terms of legislated changes in the disability program. Table 4 shows the number of awards and incidence rates for disabled worker beneficiaries from 1960 through 1980.

TABLE 4.—NUMBER OF AWARDS AND INCIDENCE RATES FOR DISABLED WORKER BENEFICIARIES, 1960–80

Calendar year	Number insured on Jan. 1 (in millions)	Number of awards during the year (in thousands)	Incidence rate (per thousand)
1960	46.36	208	4.49
1961	48.51	280	5.77
1962	50.47	251	4.97
1963	51.52	224	4.35
1964	52.30	208	3.98
1965	53.32	253	4.74
1966	54.99	278	5.06
1967	55.72	301	5.40
1968	67.96	323	4.75
1969	70.12	345	4.92
1970	72.36	350	4.84
1971	74.50	416	5.58
1972	76.14	455	5.98
1973	77.80	492	6.32
1974	80.44	536	6.66
1975	83.27	592	7.11
1976	85.15	552	6.48
1977	86.65	569	6.57
1978	88.83	457	5.15
1979	90.60	409	4.51
1980	93.10	390	4.19

Source: Final report of the National Commission on Social Security, March 1981.

The adverse experience in the social security disability program in the early and mid-1970's was not an isolated phenomenon. The experiences of the State welfare programs, SSI, the civil service retirement program, and other government and privately financed disability plans were similar. The number of persons on the disability component of State welfare rolls increased greatly in the early 1970's despite declines in the low income population. The rate of disability awards for the same period in the civil service retirement program was about twice the rate of that in the 1960's.

TABLE 5.—DISABILITY BENEFICIARIES UNDER PUBLIC AND PRIVATE PROGRAMS

	Disabled workers, in thousands			
	1965	1970	1975	1977
Programs covering long-term disability:				
Social security disability insurance	988	1,493	2,489	2,834
Welfare for disabled and blind, later supplemental security income	642	1,016	2,024	2,207
Federal civilian employees disability	149	185	258	301
State and local government employees disability retirement	69	86	128	152
Private sector long-term disability retirement	[1] 371	[1] 570	[1] 825	[1] 800
Private sector long-term disability insurance		[1] 40	[1] 100	[1] 110

[1] Figure highly approximate.

Source: President's Commission on Pension Policy, final report, appendix, Ch. 40: Disability: A comprehensive overview of programs, issues, and options for change.

A study "International Trends in Disability Program Growth" published in the October 1981 Social Security Bulletin, shows a similar spurt of growth in government disability plans in other countries. The gross disability incidence rate increased in the Belgian and Finnish programs from the late 1960's and in the programs of the Federal Republic of Germany and France in the early 1970's, tapering off by the mid-1970's.

Causes for Growth

No studies have conclusively provided the specific reasons for the across-the-board growth in disability programs. Different analysts put

more weight on one factor than another. A combination of factors is usually cited by experts on the social security program. The major factors are discussed below.

1. WEAK FEDERAL MANAGEMENT

A major cause of the unexpected growth in the DI program is often attributed to poor Federal administration of the program. Disability determinations are made separately by some 50 State agencies using medical and vocational standards established by the Social Security Administration. In the mid-1970's there was an enormous increase in the number of DI and SSI claims to be processed, and tremendous pressure to pay benefits timely. DI claims alone increased from about 868,000 in 1970, to about 1.3 million in 1974. DI administration was greatly deemphasized to keep pace with the escalating number of claims and at the same time to hold down administrative costs and personnel levels. Expedients were adopted in the development, documentation, and review of claims. For instance, the Social Security Administration eliminated its 100 percent review of State agency disability decisions and reviewed, instead, only a small sample of decisions. While this change resulted in reduced administrative expenses, it most likely also resulted in some disability awards which did not really meet the requirements of the law, and should have been disallowed. A preadjudicative review by the Social Security Administration that will eventually reach 65 percent of claims approved is required by the 1980 amendments.[1]

Another problem was that the Social Security Administration had major difficulties in issuing adequate and timely criteria for determining disability. As early as 1960, the so-called Harrison subcommittee of the House Ways and Means Committee in their study of the disability program recommended that the Social Security Administration provide disability examiners and ALJ's explicit guidance in the form of regulations and other precedent materials on how to apply the vocational standards. In 1974, the House Ways and Means Committee staff also called for clear and concise regulations on vocational factors. Nevertheless, regulations were not published until 1978, 20 years after the Harrison subcommittee recommendation.

The GAO pointed out in 1976, that medical listings issued in 1968, which were being used by State agencies to justify a finding of disability, lacked specificity and failed to take into consideration advances in medical technology. GAO also commented that State agency officials complained that the listings were too time consuming or too costly to implement. SSA spent several years updating the listings, which were published in 1979.

According to a March 1981, GAO report, "More Diligent Followup Needed To Weed Out Ineligible SSA Disability Beneficiaries," beneficiaries who are on the rolls may never have their eligibility status reviewed and may remain on the rolls until they voluntarily return to work, reach 65, or die. Some beneficiaries were never scheduled for reexamination; others were scheduled but never reexamined. Of a 14-percent sample of disability awards in 1975, only 52 percent of the

[1] The administration is requesting a waiver of this requirement.

scheduled medical reexaminations were actually done. As a result of a limited followup and poor management of the disability program, GAO estimates that as many as 584,000 beneficiaries who do not meet eligibility criteria may now be receiving disability benefits.[2]

2. MULTISTEP APPEALS PROCESS

The disability appeals process, which is essentially the same for both DI and SSI claims, can involve four distinct levels—the State agencies, the administrative law judges (ALJ's), the appeals council, and the courts. An applicant who has been denied disability benefits at the initial determination level may request a review of the claim by the State agency that made the original decision. This is referred to as a "reconsideration." The claim is reviewed by a person who did not participate in the original decision.

Those who are not satisfied with the reconsideration decision may request a hearing before an ALJ assigned to the Social Security Administration's Office of Hearing and Appeals. The ALJ may decide the case on the record or hold a hearing during which the applicant and others may present oral testimony and evidence. Applicants who disagree with the ALJ's decision may request a review by the appeals council, an independent review group also attached to the Social Security Administration Office of Hearings and Appeals. The appeals council may deny or grant a request for review.

If the council upholds the ALJ decision or refuses to review the case, the applicant may request a judicial review in a U.S. district court. The district court's decision is appealable to the appropriate U.S. circuit court, and the case may even end up in the Supreme Court.

The number of cases reversed on appeal has been increasing, with most of the increase occurring at the ALJ level. In 1964, about 10 percent of all allowances resulted from appeals beyond a denial at the first level. This percentage has risen steadily and tripled by 1980.

TABLE 6.—TOTAL DI ALLOWANCES: 1964, 1980

	1964		1980	
	Number of awards	Percent of total	Number of awards	Percent of total
State agency:				
Initial	190,000	90.0	253,000	69.5
Reconsideration	15,000	7.5	32,000	9.4
Administrative law judge hearings	5,000	2.5	66,000	21.0

Source: Social Security Administration.

3. SOCIAL ACCEPTANCE OF DISABILITY

Workers of all ages are more frequently claiming they are disabled and are more often being awarded benefits than in previous years. This tendency occurs across all educational levels. Medical evidence, however, shows no increase in impairments.

[2] The administration has since embarked on an intensive program of continuing disability investigations for DI and also for SSI. See chapter 3 below.

TABLE 7.—SELF-REPORTED INABILITY TO PERFORM USUAL MAJOR ACTIVITY AMONG MEN, AGE 45 TO 64

[In percent]

Year	Did not complete high school	High school graduate	More than high school
1969	10.6	4.0	2.8
1974	15.1	5.4	3.5
1978	17.1	7.4	3.9

Source: National Center for Health Statistics.

Disability is not, however, solely a medical phenomenon. There is no one-to-one correspondence between an impairment and a disability. An impairment is a physical or mental abnormality determined by a physician, such as a loss of limbs, or poor hearing. Disability—the social concept—is an inability to earn a living which may result from an impairment. The determination of whether an impairment constitutes a disability for a particular person is a matter of judgment based on nonmedical factors such as age, education, skills, experience, motivation, and the alternatives available.

4. GREATER AWARENESS OF THE DI PROGRAM

Data from the 1972 Survey of the Disabled show that, more than 15 years after the establishment of the DI program, almost one-half of the people who could not work regularly or work at all were unaware of the existence of the disability program. The SSI program was successful in spreading public knowledge of disability benefits because the SSI program is administered by the Social Security Administration. When people applied for the new SSI program, many were found to be also entitled to DI benefits based on their wage record. The number of people applying for disability benefits peaked in 1974—the first year of the SSI program.

5. HIGH BENEFIT LEVELS

DI benefit levels rose rapidly after 1969, both in absolute terms and as a percentage of predisability earnings. In 1970–75, there were six benefit increases, for a compounded effect of an 82-percent increase. According to SSA actuaries, 28 percent of new disability entitlements during the 1969–75 period had disability benefits that exceeded 80 percent of predisability earnings.

Some experts suggest that high replacement rates attract disabled people onto the rolls and may discourage those already on the rolls from returning to work.

6. POOR ECONOMIC CONDITIONS

When unemployment is high, it is harder for disabled workers to find and to keep jobs, so workers are more likely to apply for, and pursue disability benefits. For several years before 1970, the unemployment rate remained stable at below 4 percent. Since 1970, unemployed people have made up more than 5 percent of the labor force in

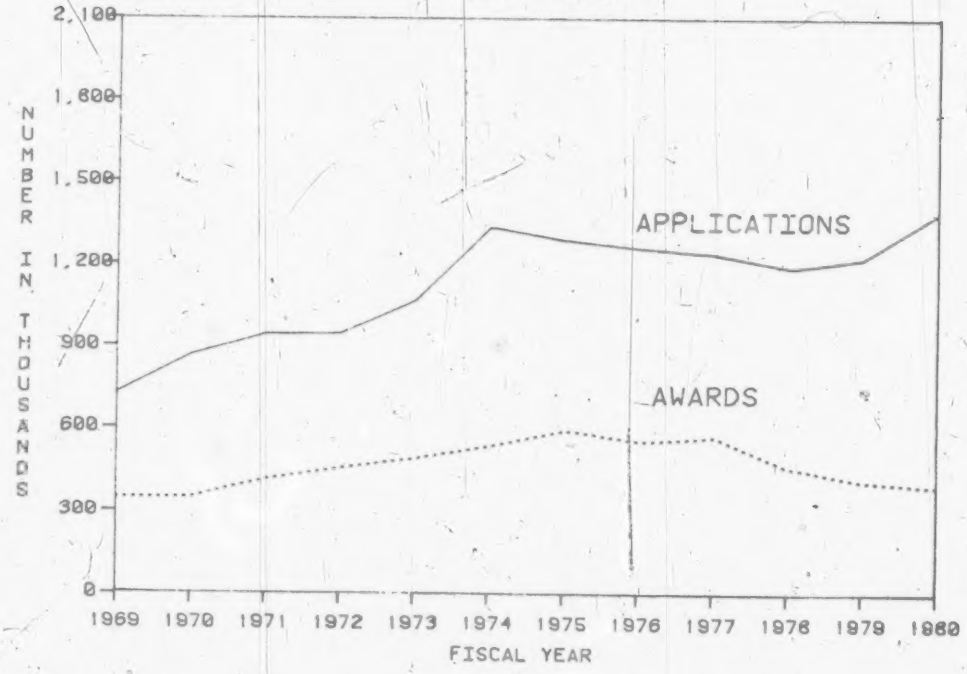
every year except 1973 (4.9 percent). As chart 1 indicates, the year of the highest number of disability applications and awards was in the 1974–75 period when the unemployment rate was increasing, reaching 8.5 percent in 1975. (See chart 2.)

A research article "Disability Benefit Applications and the Economy," published in the March 1979 Social Security Bulletin, further indicates that the effect of labor market conditions need not be symmetrical—that is, more people tend to be pushed on the rolls by a deteriorating labor market than tend to be pulled off by improving labor market conditions. Thus, a large increase in unemployment—such as the increase experienced in 1975—may lead to a permanent upward shift in the number of beneficiaries on the disability rolls. The SSA report estimates that 19 percent of the applications received during 1970–78 may have resulted from changes in the economic choices facing disabled persons.

CHART 1

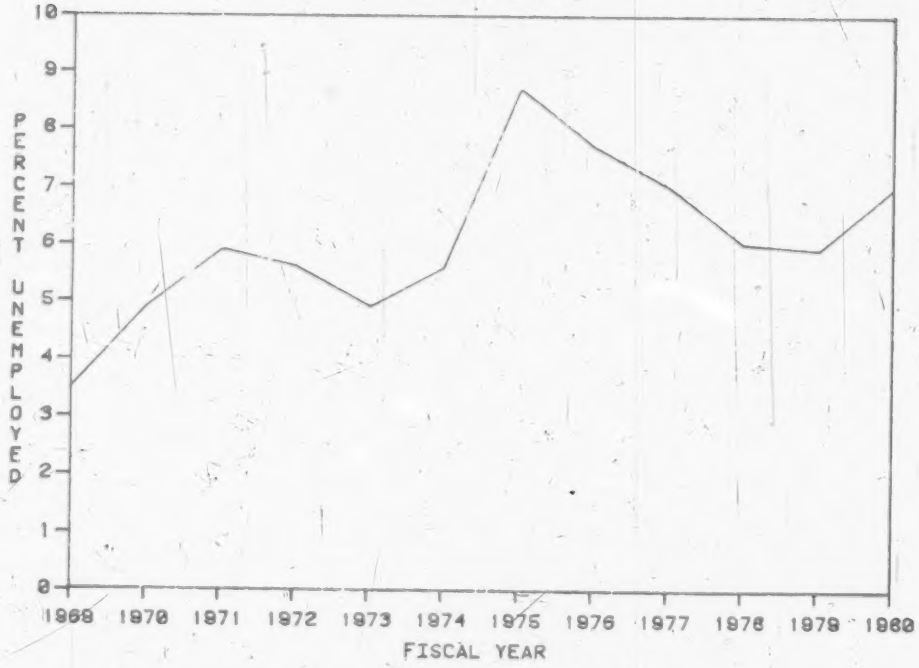
DISABLED WORKER APPLICATIONS AND AWARDS

1969-1980



SOURCE: SOCIAL SECURITY ADMINISTRATION

CHART 2
UNEMPLOYMENT RATE
1969-1980



SOURCE: BUREAU OF LABOR STATISTICS

Chapter 3

PROGRAM REFORM: RECENT LEGISLATION

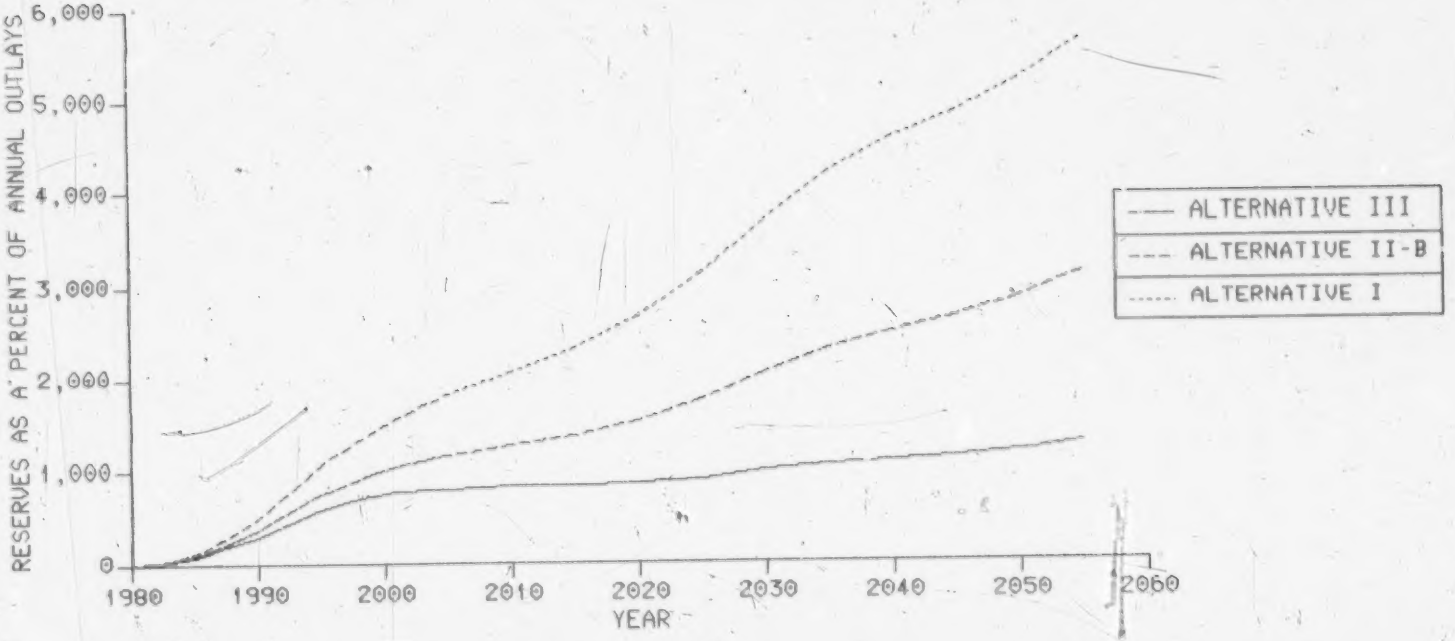
The size and the unexpected growth and costs of the disability program were a great source of concern during the 1970's to Members of Congress and the administration. Although the causes of the cost explosion were not conclusively documented, a number of legislative changes were implemented to increase revenues to the program and to control expenditures.

1977 Amendments

In 1977, Congress substantially strengthened the financial condition of the OASI and the DI trust funds by legislating payroll tax increases, and lowering future costs by changing the indexing formula. By some estimates, newly awarded DI benefits following the 1977 amendments were about 10 percent lower, on average, than those previously payable. Benefits for younger workers, where relatively higher benefit amounts had been more prevalent, were lowered even more. Whereas the DI trust fund had been projected to become exhausted in late 1978 or 1979 before the 1977 changes, the fund is now projected to remain solvent over the next 75 years as shown in the following chart.

CHART 3

DISABILITY INSURANCE
LONG RANGE FORECASTS OF TRUST FUND RESERVES
1981-2055



Source: 1981 Annual Report of the Board of Trustees of the Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds, Table 31

1980 AMENDMENTS

In 1980, Congress passed disability reform legislation that had been developing since 1974. The legislation grew out of concerns that work disincentives in the system, combined with faulty administration, might be responsible for the rapid growth in the program. The 1980 amendments set out to enhance work incentives in the DI and SSI programs and to improve the administration of the program to insure that benefits are only paid those who are eligible. The 1981 trustees report projects disability recovery rates in the DI program will be 20 percent higher because of these amendments.

Major administrative provisions of the 1980 amendments require the Secretary of Health and Human Services to:

—Issue regulations specifying performance standards along with administrative requirements and the procedures to be followed by the States in performing the disability determination function.

—Review a specified percentage of claims approved by the State agencies before benefits are paid.

—Review decisions rendered by administrative law judges in disability cases and report to the Congress by January 1982, on the progress of this effort.

—Conduct experiments and demonstrations to test the effectiveness of various ways of encouraging the disabled to return to work.

The 1980 amendments also require the Social Security Administration, beginning in 1982, to review the cases of disabled workers on the DI rolls at least once every 3 years, except where the disability is considered permanent. SSA has accelerated this review, due to GAO and SSA reports released in 1981, indicating that many current beneficiaries, perhaps 20 percent, may not be disabled.[1]

Although no changes were made in the definition of disability in House consideration of the 1980 legislation, a proposed amendment was narrowly defeated by the full House Ways and Means Committee, which would have eliminated vocational factors in disability determinations. Eligibility would have been based solely on the person's medical condition. One reason for continuing present law rules was that the number of disability awards, based on vocational factors, declined from a high of 27 percent in 1975, to only 22 percent in 1979.

Congress was also concerned about excessive replacement rates (the ratio of benefits to earnings), where dependents' benefits are involved, and it passed a provision to cap family benefits to insure that no one will receive more in benefits that he or she had previously been earning. Even after imposing this new limit on DI family benefits, Congress remained concerned about excessive replacement rates. Multiple benefits, when a worker receives benefits from a number of different programs, may mean excessive earnings replacement rates and disincentives to work. A Social Security Administration study found that in 1971, 44 percent of workers who had been disabled for a year or more also received benefits from other public or private programs, in addition to disability benefits. Such multiple benefits may raise earnings replacement rates above those obtained when the computation is limited to social security disability benefits alone. Consequently, Congress enacted a provision in the Omnibus Reconciliation Act of 1981, placing a cap on the amount of disability benefits received from Federal, State,

[1] SSA has announced that in fiscal year 1983, 433,000 DI beneficiaries and 370,000 SSI recipients will be reviewed.

and local government plans, so that combined benefits do not exceed previous earnings.

Current Status of DI Program

The incidence of disability has declined to a point as low as any in the history of the program. In 1975, the incidence award rate was at a program high of 7.1 per 1,000 workers. In 1980, it fell to 4.1 per 1,000 insured workers, which has only been lower in one other year—1964—when it was 4 percent. Recent data show that the 1981 incidence rate will be even lower than the 1980 rate.

There has also been a dramatic increase in the number of terminations for recovery, as shown in table 8—about 72,000 in 1979, compared to about 40,000 annually in 1970 through 1976.

TABLE 8.—DISABILITY TERMINATION RATES UNDER DI, 1970–79

Year	Number of terminations (thousands)		Termination rates [1]	
	Death	Recovery	Death	Recovery
1970	105.8	40.8	72	28
1971	109.9	43.0	69	27
1972	108.7	39.4	62	22
1973	125.6	36.7	65	19
1974	135.1	[2] 38.0	63	18
1975	139.8	[2] 39.0	59	16
1976	137.1	[2] 40.0	53	15
1977	139.4	[2] 60.0	50	22
1978	140.6	64.1	49	22
1979	143.0	72.3	49	25

[1] Rate per 1,000 beneficiaries on the roll.
[2] Estimated.

Source: Social Security Administration, "Experience of Disabled Worker Benefits Under OASDI," actuarial study No. 81, April 1980.

Although annual awards rose significantly from an average of about 340,000 in 1968–70, to a peak of 592,000 in 1975, since 1975 they have steadily declined. Benefit awards in 1976 through 1977 were about 5 percent fewer than in 1975. In 1978, there was even a sharper decrease to a level of awards about 23 percent below that of 1975. This trend continued in 1979 and, in 1980, when the number of awards was only 390,000, the lowest number since 1970.

There are no conclusive reasons for the slowdown in awards, but it is generally attributed to improved administration of the program and tougher reviews of claims.

In 1975, about 50 percent of State agency decisions were awards. That figure has declined to about 30 percent. Although the low award rate has been accompanied by an increase in the volume of reconsideration requests—the number rose from just under 100,000 in 1970 to over 200,000 in 1975, and to about 300,000 in 1980—the allowance rate on reconsiderations dropped from 34 percent in 1975 to 15 percent in 1980. The trends for the SSI program are similar.

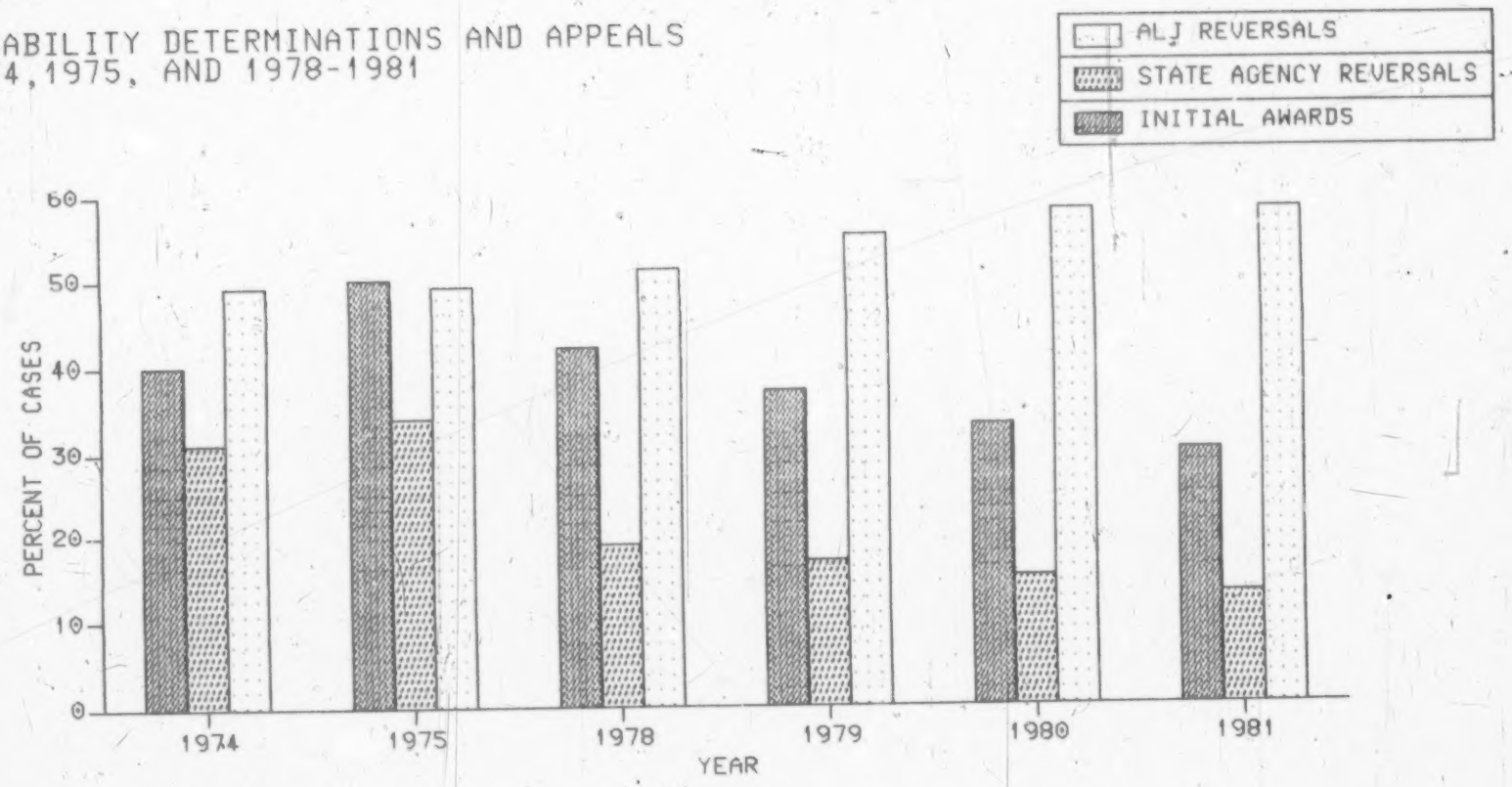
Although the overall statistics on awards show promising signs of stability compared to the rapid increase in the mid-1970's, some major problems still need to be addressed. The national statistics hide some very great discrepancies that exist among State agencies. For example, although the national State agency allowance rate is about 30 percent, State agency allowances ranged from a low of 24 percent in Arkansas to a high of 47 percent in South Carolina.

As far back as the Harrison subcommittee proceedings in 1960, the question was raised about how disability decisions could be consistent if denial rates vary widely from State to State. In a 1976 report, GAO found that various State agencies reached different decisions on the same cases. Other studies have reached similar conclusions. In "Consistency of Initial Disability Decisions," a study published by the Social Security Administration in March 1981, the authors chose a random sample of 504 cases that had been approved or denied by State agencies, and submitted each case to two separate claims examiners in eight States for their decision. The study found a 15-percent probability that two randomly chosen States would disagree in their decision on a case. Two examiners in a single State disagreed about 12 percent of the time. The SSA review office found that some of the cases were inadequately documented even though the State agency that had actually handled the case found the information on file adequate to make a decision. For such cases the probability of disagreement were 23 percent between States, and 17 percent within a State.

Adding to this confusion is a great lack of uniformity among the different levels of adjudication—the State agencies, the ALJ's, and the courts. The dramatic drop in the number of awards over the past few years has been entirely at the State agency levels. The opposite experience has been occurring at the ALJ level. While the State agencies are denying about 70 percent of the initial claims (30 percent allowance rate), the ALJ's are awarding benefits by reversing the State agencies at about a 60-percent rate. This rate could increase even more, as the Social Security Administration reexamines beneficiaries who have been on the rolls for many years and who have not had medical reexaminations before.

CHART 4

DISABILITY DETERMINATIONS AND APPEALS
1974, 1975, AND 1978-1981



Source: Social Security Administration

The high ALJ reversal rate has resulted in more attorney involvement and more appeals—hearing determinations rose from 75,000 in 1975, to 170,000 in 1980—and possible unequal treatment for the denied claimants who do not appeal their cases.

The high reversal rates are generally attributed to the claimant's first face-to-face appearance before a decisionmaker, the new evidence submitted at the hearing level, and the worsening of medical condition. Some have also suggested that the disability concept itself may be the reason for the difference of opinions. To reach a decision that an applicant is or is not disabled requires a judgment about the effect of the person's impairment on ability to work. Although some progress has been made in providing explicit guidance through regulations and operational instruction in certain complex areas, they may be interpreted differently by different individuals. Even when standards are correctly applied, they permit varied decisions.

Some have also pointed out the high reversal rate is due, in part, to the fact that State agency decisions are made on a different set of rules than the ALJ's. State agencies must make their initial and reconsideration decisions according to the law and the SSA regulations and guidelines, as explained in operating instructions. The reconsideration process may result in fewer reversals of the initial decision because both decisions are governed by identical rules. At the hearing level, however, an ALJ is prohibited from using administrative guidelines. This is done to protect the independence of the appeals process from the administration of the program. In its final report, the National Commission on Social Security recommended that the administrative guidelines that bind the States should be published in regulations so that they govern the hearings decision as well. This is one of the provisions included in H.R. 3207, introduced by Representative Pickle in the 97th Congress.

Opponents argue this approach will mean that claimants in social security appeals will not receive fair hearings. They say many applicants are wrongfully denied at the State agency level. Further, they argue that even though the number of benefit awards have fluctuated over the years, the disability incidence rate has not changed much and is now the same as it was in 1964. What has changed dramatically is the level of adjudication at which claims are awarded. They cite the growing denial rate at the State agency level and the growing rate of affirmance of this decision on reconsideration as the reason for the great growth of reversals (allowances) at the ALJ level.

ALJ decisions have not been reviewed for the past 5 years, so the reasons for the present differences remain unclear. The 1980 amendments require the Social Security Administration to reinstitute a program to review ALJ decisions. SSA is considering how it might do this in terms of standards and methods and review. In carrying out this study, SSA has found out that even when State agencies and ALJ decisionmakers are presented with the same medical evidence on the same cases, they often reach different decisions.

GAO is also looking at the disability program, including the lack of consistent decisions, and is expected to make recommendations in 1982. Meanwhile, several proposals have been suggested to change some aspect of the eligibility criteria for future applicants. Before moving on to a discussion of some of the specific proposals advanced

in 1981, the present definition of disability and the sequential determination process will be reviewed for the benefit of the reader.

Present Disability Definition

Legislatively, disability is defined as the inability to engage in any kind of substantial gainful activity (SGA) by reason of any medically determinable physical or mental impairment which can result in death or be expected to last for a continuous period of not less than 12 months. One must not only be unable to do one's previous work but also, considering age, education, and work experience, engage in any kind of substantial gainful activity which exists in the national economy (i.e., in significant numbers in the region where one lives, or in several regions in the country). It is immaterial whether such work exists in the immediate area where the applicant lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work.

The statutory definition of disability is the same for the SSI program, and it is considered to be a strict definition, which only the most severely disabled can meet. It is designed to distinguish between those who are out of work because of their medically determinable impairment and those who are out of work for other reasons. However, the statute is not specific in describing how the definition is to be applied in individual cases. This is spelled out in regulations and operating instructions.

Disability Decision Process

It is not possible to evaluate each applicant on all of the objective and subjective factors that enter into determining inability to work. To process more than a million new claims each year, a five-step sequential evaluation procedure has been established. When a determination can be made at any step, evaluation under a subsequent step is unnecessary.

(1) The first step in the evaluation is to determine whether the applicant is currently engaging in substantial gainful activity (SGA). Under present regulations, if a person is actually earning $300 a month, he or she is engaging in SGA and is considered not disabled. Earnings are a clear sign that the person is able to work. Medical, vocational, or other factors are not explored.

(2) The second step in the sequence is to determine whether the applicant has a "severe" impairment. A "severe" impairment is defined as one that significantly limits physical and/or mental capacities to perform basic work-related functions. It is determined by medically acceptable clinical and laboratory diagnostic techniques. No consideration is given to a person's past work or other vocational factors. If the applicant does not have an impairment that is considered severe, the claim is denied at this point.

(3) If the applicant does have a severe impairment the next step is to determine whether the impairment meets or equals one of the disabling conditions specified in the medical listings developed by the Social Security Administration. If the impairment meets the duration requirements (1 year) and is included in, or equivalent to, the medical listings, the applicant is presumed to be disabled without consideration of vocational factors.

(4) In cases where a finding of disability, or of no "disability," cannot be made based on the SGA test, or on medical consideration alone, but the person does have a severe impairment, the fourth step is to evaluate the individual's "residual functional capacity" (RFC) and the physical and mental demands of past work. If the impairment does not prevent the applicant from performing past work, there must be a decision that the person is not disabled. If the applicant cannot carry out his former occupation, vocational factors come into play.

(5) The final step in the sequence is consideration of whether the applicant's impairment prevents other work. At this stage, the burden of proof shifts to the Government to show that the applicant can, considering his impairment, age, education, and work experience, engage in some other kind of work which exists in the national economy. Such work, however, does not have to exist in the immediate area in which an applicant lives; and a specific job vacancy does not have to be available.

Table 9 shows that the basis for disability denials has varied widely over the past 5 years. For example, in 1975, slight impairment was the basis for denials in about 8 percent of the cases, but this increased to about 40 percent in 1980. Denials based on the ability to perform usual work have also turned around, from 44 percent in 1975, to about 20 percent in 1980.

TABLE 9.—BASIS FOR DISABILITY DISALLOWANCES: INITIAL WORK DETERMINATION, 1975–80

[In percent]

Fiscal year	Engaging in SGA	Slight impairment	Duration	Able to perform usual work	Able to perform other work	Failure to cooperate	Failure to appear	All other codes
1975	1.0	8.4	19.6	44.3	18.2	5.1	1.8	1.6
1976	.4	10.8	19.9	41.9	20.1	4.8	1.8	.3
1977	.5	24.8	21.2	30.0	15.7	4.9	1.8	1.1
1978	.5	31.8	21.1	25.0	14.6	4.1	1.9	1.0
1979	.4	41.6	20.0	21.5	12.5	.9	2.3	.8
1980	.3	43.6	20.6	20.1	12.4	.5	2.8	------

Source: Social Security Administration

Chapter 4

POTENTIAL LEGISLATIVE CHANGES

Although the 1980 disability amendments have not yet been fully implemented, rising disability program costs due to inflation, together with the serious financial deficits of the OASI trust fund, have led to proposals to tighten up eligibility requirements for disability benefits in order to achieve large short-term savings. While the social security trustees report shows the DI trust fund reserve level is adequate, when the OASI and the DI funds are viewed together, the combined reserves are dangerously low and will be exhausted in the mid-1980's if no action is taken. Some of the specific disability options advanced in 1981 are discussed below.

Change Definition of Substantial Gainful Activity (SGA)

Under present rules, the SGA test is, for all practical purposes, an all-or-nothing call. It is the very first step in the sequential disability determination, and the applicant who is earning more than $300 a month will always be denied. One option would be to defer the test until a disability determination is made on other grounds and then benefits could be gradually offset if the person's earnings exceed the Federal poverty level, or some other specified amount.

In its final report published in March 1981, the National Commission on Social Security recommended that the SGA amount be the same as the earnings test exempt amount in the retirement program for those under age 65. This proposal would increase the amount used to define SGA to $370 a month in 1982; define it in the statute rather than in regulations; and subject it to the same automatic indexing procedures as the earnings test. Increasing the SGA would be consistent with the direction taken in the 1980 amendments to encourage those who can regain the capacity to support themselves to do so and permit those with severe limitations to work as much as they can without losing their disability benefit.

A major drawback is that liberalizing the SGA amount will increase the size of the program. A special study, "Effects of Substantial Gainful Activity on Disabled Beneficiary Work Patterns" published in the March 1979 Social Security Bulletin, found that increases in SGA levels in 1966, 1968, and 1974, were not followed by incremental increases in beneficiaries earnings. The authors concluded that raising the SGA level would increase program costs by enlarging the size of the eligible population and by reducing the number of persons whose benefit could be terminated.

Change 12-Month Duration Requirement

In 1965, the test of long continued and indefinite duration—usually interpreted as a 24-month duration—was replaced with the present

12-month test. At that time, the House voted to change the duration to 6 months, but the Senate felt that 6 months was too short a time and would permit payments to workers with temporary disability. The Senate chose a 12-month duration requirement because: "As experience under the program has demonstrated, in the great majority of cases in which disability continues for at least a year, the disability is essentially permanent."

The Reagan administration recommended in May 1981 a return to the more restrictive requirement of 24 months to assure that people with disabling impairments, which are amenable to treatment and recovery, would not qualify for disability benefits. The administration estimated that savings would be $2.8 billion over 5 years.

Opponents of the change say the proposal would make it too difficult for deserving applicants to qualify for benefits. Opponents cite statistics indicating that 7 out of 10 people who now apply for benefits are denied.

Some workers who would not qualify under the 24-month duration could qualify for SSI if the disability prognosis is not changed in that program, but many people would not meet the strict income and asset test for SSI eligibility. Also, since the duration test is an integral part of the definition of disability in both the DI and the SSI programs, a difference in the duration requirements between the two programs may be difficult for the public to understand. This would be particularly true where a person files claims for both benefits simultaneously and is found disabled under one program but not the other.[1]

A change to 24 months duration may also make it more difficult for physicians to provide a prognosis for a patient, thereby slowing the adjudicative process and making determinations even more inexact than they are under current law.

A social security followup survey of beneficiaries awarded in 1972, the latest data available, showed that only 4.7 percent recovered from disability within 24 months after entitlement and 0.2 percent of them later relapsed into disability.

Consider Medical Only Determinations

A medical only determination, coupled with a long duration requirement, is usually suggested by those who believe that the present definition of disability is too subjective, results in a lack of uniform decisions, and makes the program too difficult to administer. The Reagan administration proposed a medical only determination in its May 1981 package. Projected savings were $7.7 billion in the first 5 years with long-range savings of 0.06 percent of taxable payroll.

Presumably, under a medical only determination, an applicant would be allowed benefits only if he "meets" or "equals" the medical listings spelled out in the regulations. Therefore, steps 4 and 5 of the sequential determination process—the most subjective—would be eliminated.

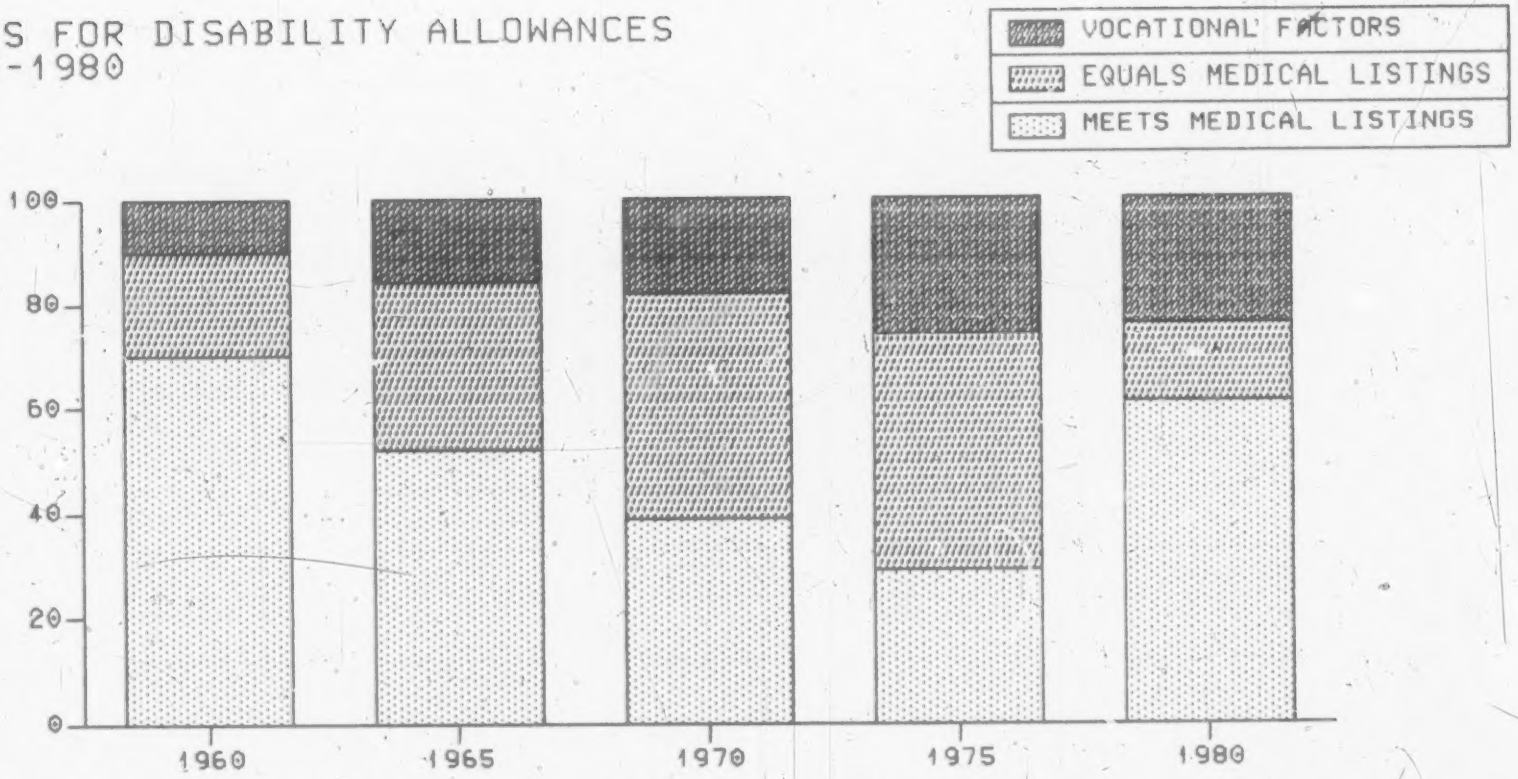
Arguments for and against this proposal are similar to those cited above concerning the increase in the duration requirement from 12 months to 24 months. Opponents make the additional argument that a

[1] The administration's fiscal year 1983 budget proposes to change the SSI definition of disability, but not the social security disability definition to require a 24-month prognosis and a "preponderance" of medical evidence.

relatively small number of workers, about 25 percent, qualify for benefits based on a combination of medical and vocational factors, and it is not at all clear that members of this group are able to work and support themselves. Moreover, the administration of the program has already been substantially tightened to the point that the largest number of awards, about 60 percent, are being made on the basis of the most stringent medical criteria—"meets" the listings. This is about the same percentage as in the beginning of the program. The basis for disability allowances in selected years is shown in chart 5.

CHART 5

BASIS FOR DISABILITY ALLOWANCES
1960-1980



The greatest impact of a change to medical only determinations will likely be on older workers. Under this change, a 64-year-old unskilled illiterate worker with a severe injury could be treated the same as a 34-year-old businessman with a college education. Under present rules older workers receive an advantage, and this is reflected in the number of allowances made on the basis of vocational factors. While about 25 percent of all awards in 1980 considered vocational factors, more than one-third of those age 60 to 64 had some vocational factors taken into account in determining their eligibility.

TABLE 10.—*State agency initial allowances based on combination of medical and vocational factors, 1980*

Age:	Percent
Under age 50	7
Age 50 to 54	18
Age 55 to 59	31
Age 60 to 64	38
All ages	24

Source: Social Security Administration.

Older workers who have an impairment so severe as to prevent them from doing their past work are more readily found to be disabled than younger, but otherwise similar, persons. If persons age 55 through 64 are unable to perform work requiring a medium amount of strength and endurance (i.e., stand for most of the day, lift up to 50 pounds, and frequently carry or lift up to 25 pounds), and have no transferable skills or relevant work experience, they may be eligible for benefits even though they are physically able to perform less demanding work. For people age 60 through 64, skills are considered transferable only if they can be used in an occupation closely related to the individual's prior work. Given that "closely related" is defined narrowly in practice, persons age 60 or over who cannot do medium work are usually found to be disabled if they are unable to perform jobs that they have recently performed—even if they have skills that might be transferable.

By a narrow majority, the 1979 Advisory Council on Social Security recommended that the rules now applied to people age 60 through 64, should be extended to cover people age 55 through 59. Their rationale was that handicapped workers in their late fifties suffer from the same difficulties in obtaining jobs as do handicapped workers in their sixties. People with severe physical limitations that keep them from doing their past work cannot realistically be expected to adjust to other employment after age 55. In practice, they are totally disabled. For persons awarded disability in 1975, the year of the highest number of awards, the median age was 55.6; 37 percent had an eighth grade education or less; and 44 percent had been employed in blue-collar positions requiring some type of physical labor.

Earlier Advisory Councils on Social Security also recommended making it easier for older workers to qualify for disability benefits. Both the 1971 and the 1975 councils recommended that the occupational definition of disability, similar to the definition now applicable to older blind workers, be extended to all handicapped workers age 55 or over. The 1975 advisory council added this feature to its recommendation: Having a 20-percent reduction from the full disability benefit (similar to early retirement benefits) to ease the cost of the change.

New Application of Vocational Factors

As stated earlier, in the disability determination process, if a person meets the medical criteria, the vocational factors are not considered. It has been suggested that vocational factors should be applied to all applicants in addition to the medical criteria. The concern here is that a large number of awards are made on the basis of medical impairment criteria without reference to past work experience or other vocational factors (sequential step 3). As a result, there is an unknown, but potentially large number of persons on the rolls who may be capable of working, despite a severe medical impairment. The potential cost savings to the DI program are estimated to be over $320 million annually if medical criteria and vocational factors are applied uniformly to each claimant.

An argument against this approach is that it puts a heavy burden on people with the most severe medical impairments. It would also seem to be more difficult to administer, since vocational factors would be applied to upward of a million claims a year.

Reduced Disability Benefits

The option of paying reduced disability benefits was raised by the President's Commission on Pension Policy as a subject for further study. Under present rules, there is a financial incentive for handicapped workers between ages 62 to 64 to file for disability benefits rather than early retirement benefits. Disabled workers are paid full social security benefits as if they had retired at age 65, while persons retiring at ages 62 to 64 receive reduced benefits even though some have impairments which are only slightly less severe than those eligible under the DI program.

People aged 62 and over have nothing to lose by filing concurrent applications for disability benefits and early retirement benefits. In fact, in 1979, about 250,000 people did so. This costs SSA about $20 million annually to administer. Also, the high rate of allowances for older workers raises a question of whether some persons filing for early retirement benefits because of poor health should be filing for disability benefits.

Increase Insured Status Requirements

The Reagan administration proposed to reinstitute the recency of work test (6 of the last 13 quarters preceding disability) that was eliminated by the 1958 amendments, and also to increase the regular work requirements from 20 of the last 40 quarters preceding disability, to 30 out of the last 40 quarters.

The new 6 out of 13 quarters requirement was passed by the Senate as a part of the 1981 omnibus reconciliation legislation but was dropped by the conference committee. It was estimated to save the DI program $3.8 billion between 1982 and 1986. The 30 out of 40 proposal would save $10 billion more during the same period.

The combined effect of both proposals would be to require that DI beneficiaries have a more recent and longer attachment to the paid labor force. Under present rules, a person can be out of covered employment for 5 years and still qualify for benefits.

Precise estimates of the number of people that would be affected by the more strict requirements are not available. A recent study by SSA, however, shows that 9 percent of the people who would qualify for DI benefits under current law would not meet the 6 out of 13 quarters test. The study also showed that women and minorities are relatively less likely than white males to meet the 6 of 13 test. According to the October 1981 Ways and Means Committee print "Reagan Administration Disability Proposals," women who leave the work force to care for children will lose coverage under the 6 out of 13 rule if they are out of the work force for more than 21 months. If they are out of the work force for 2½ years (for example, to care for a child), they would have to return to work steadily for 7½ years before they could regain their disability insured status.

SSA estimated that, using the 30 out of 40 quarters proposal, between 20 and 30 million of the estimated 95 million workers under age 65 now insured for disability would lose their insured status. It is not known exactly how many of these workers have long-term disability protection other than under the DI program. In discussing the interaction of private disability plans and social security, the House Ways and Means Committee staff report on the DI program in July 1974, stated:

> The Social Security Administration informs us that it believes that about 20 million people have disability protection through their pension plans and that group long-term disability policies cover about 8.6 million people. Although some workers have protection under both types of coverage, it is estimated that roughly 25 million wage and salary workers, or about two-fifths of the wage and salary labor force, have protection against the risk of long-term disability through nongovernment arrangements which supplement social security disability benefits.

A major problem with tightening recent work requirements is that there may be justifiable reasons for disabled workers to have been out of the work force, such as an illness that does not meet the definition of disability, a progressively debilitating disease, onset of disability after a period of unemployment, child care, etc. An exception could be made for such reasons, but this would make the provision difficult to administer.

Increase the Waiting Period

In 1972, the waiting period for payment of disability benefits was reduced from 6 to 5 months. The Reagan administration recommended restoration of the 6-month period to conform to the terms of most private disability insurance plans.

The administration believes a strict definition of disability and a longer waiting period would discourage workers from applying for disability benefits and help keep the cost of the program under control. SSA surveys (see appendix 1) indicate that some 10 million people of working age have what might be considered severe disabling conditions. In comparison, less than 3 million of them receive DI benefits, while many others work. A long waiting period makes it more costly for a person who can work not to do so. The waiting period has also

been used by SSA in the DI program as a way of seeing whether a person only has a temporary incapacity to continue working. There is no waiting period in the SSI program.

The House Ways and Means Committee recommended the present 5-month waiting period in 1972. In its report, the committee then stated:

> While many workers have some protection against loss of income due to sickness or disability under various public or private plans (such as group policies, sick-leave plans, etc.), such protection usually expires before the end of the present disability waiting period. Reducing the waiting period from 6 months to 5 months would diminish the financial hardships faced by those workers who have little or no savings or other resources to fall back on during the early months of long-term total disability.

While the 1-month reduction in the waiting period originated in the House during the 92d Congress, it actually was preceded by a Senate amendment during the 91st Congress. The Senate amendment would have reduced the waiting period by 2 months. The Senate passed the bill in December 1970, but limited time in the 91st Congress precluded further action. The Finance Committee's report to the Senate commented:

> The Department of Health, Education, and Welfare informed the committee that: About one-fourth of the workers in private industry are covered under State temporary disability programs which provide protection during the early stages of long-term total disability but do not provide benefits for longer than 26 weeks, less than 2 percent of workers with long-term total disabilities received workmen's compensation, and many workers who have protection against loss of income due to sickness or disability under employer plans (such as group policies, sick-leave plans, or union-management plans) lose their benefits well before the 6th month of total disability.
>
> The committee's change is intended to relieve the financial hardship that occurs when a worker becomes disabled and the family is without earnings during the 6-month waiting period. Therefore, the committee's bill would reduce the waiting period by 2 months, so that entitlement to disability benefits would begin after a 4-month waiting period.

The 1979 advisory council recommended that the waiting period be reduced to 3 months. All new disabled beneficiaries, including the terminally ill, already wait 5 full months before benefits are paid. If disability begins after the first day of the month, the waiting period begins with the following month. Thus, some people have to wait until the end of the 7th month before a check is payable.[2]

The 1980 amendments authorize up to $2 million a year for SSA to study the impact of the waiting period and other DI provisions on the terminally ill. The report is expected to be completed in 1984.

[2] Social security checks are issued at the beginning of the month for the prior month's benefits.

Chapter 5

DISABILITY AND EARLY RETIREMENT BENEFITS

Major proposals for improving the long-run financial conditions of the social security system often involve either reducing the percentage of preretirement earnings (replacement rates) or raising the age at which full benefits are paid—the "normal" retirement age. Reductions in early retirement benefits—or raising the age requirement for full retirement benefits from age 65 to 68—will undoubtedly affect claims under the disability program.

All three national advisory commissions—the Advisory Council on Social Security, the National Commission on Social Security, and the President's Commission on Pension Policy—recommended that the age for full benefits be raised from 65 to 68, after a long phase-in period. The rationale for this change is that, because of longer life expectancies and healthier generations of older Americans, a shift to age 68 would be better suited to the changing conditions and at least equivalent to—and perhaps longer than—the duration of retirement envisaged when the age was first set at 65 back in 1935.

One option is a gradual increase in the age at which full benefits are paid, beginning in 1990. By the year 2000, those retiring at age 62 could receive 64 percent of the full benefit, with the percentage gradually increasing to 100 percent at age 68.

Another option is a gradual increase in the retirement age for receipt of full benefits to 68 and an increase in the early retirement age to 65, over a long period, for example, from 2000 to 2012. A person retiring at age 62 in 2012 would receive no benefits, and a person retiring at age 65 would receive 80 percent of the full benefit.

A third option is to reduce benefits only to those retiring before age 65. Beneficiaries retiring at age 62 could receive 55 percent of their full benefit rather than 80 percent provided under the current law. It would probably increase the average age of retirement without a statutory increase in retirement age.

Impact of Retirement Age Changes on Disability Program

When early retirement benefits were first offered to men in 1961, the legislative history shows that Congress intended to grant these benefits to help alleviate the hardship faced by older workers who, because of ill health, technological unemployment, or other reasons beyond their control, could not continue working until age 65. Proposals to increase the retirement age usually permit those under the new retirement age, who cannot work because of ill health, to continue to qualify for disability benefits under the present rules. (The more liberal test of disability now applied to older workers age 60 to 65 would be applied to those age 60 to 68.)

In contrast to continued use of special consideration for older disabled workers, the administration proposed in May 1981, to reduce early retirement benefits and simultaneously tighten the definition of disability for older workers by requiring the use of medical only determinations, as discussed in the previous chapter. The administration argued that needy workers who do not qualify under the new standards could apply for the SSI disability program—which would not change [1]—or take a lower early retirement benefit (55 percent of the full benefit) at age 62.

From the viewpoint of beneficiaries, placing older workers with long and solid work histories in a disability welfare program (SSI) would probably not be an acceptable approach. Also, a greatly reduced early retirement benefit would not seem to be an appropriate response to people who are forced to retire because they are incapable of working. The Social Security Administration estimated in 1979, that about 10 percent of those over age 65, living in poverty, would have had incomes above the poverty line if their benefit had not been actuarially reduced.

The relative advantages and disadvantages of raising the normal retirement age and the impact on the disability program were discussed in testimony before the Senate Special Committee on Aging in a September 1981 hearing on long-term social security financing. Dr. Alicia Munnell—vice president of the Federal Reserve Bank of Boston and the author of "The Future of Social Security," [2] said, "I argue for extending the retirement age provided you have a good additional program to pick up."

Dr. Munnell pointed out it is essential to remember that some older workers will not be able to engage in gainful employment past age 62 and must have access to some form of income support. If they are prevented from working by physical disability, the appropriate way to provide for them is an expanded disability insurance program. While current law makes some allowance for age in determining disability by applying a more liberal test to those age 60 or older, more explicit recognition of the interaction of age and physical impairment may be required. An appropriate procedure might be one analogous to the sliding scale used to determine eligibility for veterans' disability pensions. Under this procedure, permanent and total disability is required for receipt of pensions before age 55; 60 to 70 percent disability is sufficient between the ages of 55 and 59, and only 50 percent disability is required between 60 and 64. An expanded disability program is a crucial prerequisite to extending the retirement age.

In addition, Dr. Munnell said some older workers may not be able to find jobs because they have been displaced by automation. These aged will not have access to disability insurance and may face a severe loss of income as a result of extending the social security retirement age. The changing characteristics of the workplace, however, indicate that the number of healthy, unemployed aged may be quite small. While retraining older workers is generally considered impractical today, restructuring jobs for older employees may become economical in the tight labor markets forecasted after the turn of the century.

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[1] Change in SSI disability have since been proposed by the administration as part of its fiscal year 1983 budget request.

[2] Washington, D.C.: The Brookings Institution, 1977.

Professor Peter Diamond from the Massachusetts Institute of Technology pointed out those retiring early are a particularly vulnerable population. "My sense is," he said, "that these are people with health problems not severe enough to receive disability benefits and, secondly, these are people with long-term unemployment. We do not have any other programs to deal with these people." For similar reasons, the 1979 advisory council unanimously recommended consideration of a special unemployment benefit program for older workers.

The point is this: Whatever action Congress takes on retirement age changes, they should be carefully evaluated to assess their impact on disabled workers in their fifties and sixties with health problems that prevent them from doing their usual work but which are not severe enough to qualify them for a total disability program. Many of these workers will have the wrong kind of skills and/or live in communities where they will not be able to find new jobs and work until normal retirement age.

APPENDIXES

Appendix 1

CHARACTERISTICS OF THE DISABLED POPULATION, 1978 [1]

In 1978, there were an estimated 127 million noninstitutionalized Americans aged 18–64. Of this number, more than 21 million (17 percent) of adults reported themselves partially disabled, i.e., limited in their ability to work due to a chronic health condition or impairment. About half of the disabled—10.7 million (8 percent)—of adults were severely limited, i.e., unable to work altogether or to work regularly. Adults between 55 and 64 were 10 times more likely to be severely disabled than adults aged 18–34. In contrast, the rate of partial disability peaked between the ages of 45 and 54, with about 60 adults of every 1,000 being partially disabled. Some other characteristics of the disabled are:

Sex

18 percent of the women and 15 percent of the men were limited in their ability to work.

10 percent of women and 7 percent of the men were severely disabled.

Race

8 percent of the white population, 13 percent of blacks, and 13 percent of the respondents of Spanish origin were severely disabled.

8 percent of the white population and the same percentage of the black population and Hispanics were partially disabled.

Education

34 percent of the severely disabled and 15 percent of the partially disabled had an eighth grade education or less.

30 percent of the severely disabled and 37 percent of the partially disabled had a high school education.

13 percent of the severely disabled and 26 percent of the partially disabled had a college education.

Functional Capacity

95 percent of the severely disabled and 88 percent of the partially disabled had difficulty in performing daily activities such as physical movement, seeing, hearing, speaking.

[1] "Work Disability in the U.S." a chartbook. Department of Health and Human Services, Social Security Administration, December 1980.

37 percent of the severely disabled and 20 percent of the partially disabled had some sensory and general mobility limitations.

25 percent of the severely disabled and 9 percent of the partially disabled were not freely mobile outside the home.

76 percent of the severely disabled and 44 percent of the partially disabled had difficulty walking.

68 percent of the severely disabled and 49 percent of the partially disabled had difficulty stooping, crouching and kneeling.

50 percent of the severely disabled and 20 percent of the partially disabled had difficulty carrying light weights.

37 percent of the severely disabled and 19 percent of the partially disabled had difficulty handling and fingering.

28 percent of the severely disabled and 13 percent of the partially disabled had visual impairments.

8 percent of the severely disabled and 6 percent of the partially disabled have trouble hearing.

5 percent of the severely disabled and 3 percent of the partially disabled have speech problems.

Medical Conditions

65 percent of the severely disabled and 65 percent of the partially disabled reported musculoskeletal disorders.

51 percent of the severely disabled and 33 percent of the partially disabled reported cardiovascular conditions.

21 percent of the severely disabled and 15 percent of the partially disabled reported respiratory problems.

28 percent of the severely disabled and 20 percent of partially disabled reported digestive problems.

31 percent of the severely disabled and 14 percent of the partially disabled reported mental conditions.

Work and Earnings

8 percent of the severely disabled men and 4 percent of the severely disabled women worked full time (the same percentage worked part time).

80 percent of partially disabled men and 31 percent of the partially disabled women worked full time.

11 percent of the partially disabled men and 21 percent of the partially disabled women worked part time.

81 percent of the severely disabled men and 91 percent of the severely disabled women were completely out of the labor force.

28 percent of the severely disabled and 11 percent of the partially disabled earned under $5,000.

25 percent of the severely disabled and 13 percent of the partially disabled earned $5,000 to $9,999.

18 percent of the severely disabled and 17 percent of the partially disabled earned $10,000 to $14,999.

13 percent of the severely disabled and 19 percent of the partially disabled earned $15,000 to $19,999.

14 percent of the severely disabled and 39 percent of the partially disabled earned $20,000 and over.

Residence

19 percent of the disabled lived in the west (10 percent were partially disabled and 9 percent were severely disabled).

18 percent of the disabled lived in the south (11 percent were severely disabled and 7 percent were partially disabled).

16 percent of the disabled lived in the north-central region (9 percent were partially disabled and 7 percent were severely disabled).

15 percent of the disabled lived in the northeast (8 percent were partially disabled and 7 percent were severely disabled).

Appendix 2

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